



# Oregon

John A. Kitzhaber, MD, Governor

## Water Resources Department

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725 Summer St. NE, Suite A  
Salem, OR 97301  
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[www.oregon.gov/owrd](http://www.oregon.gov/owrd)

August 27, 2012

VIA E-MAIL

### Applicant

VITAL FARMLAND, LP  
ATTEN: JASON BRADFORD  
1330 NW 29TH ST  
CORVALLIS, OR 97330  
[jbradford@farmlandlp.com](mailto:jbradford@farmlandlp.com)

SUBJECT: Water Right Transfer Application T-11374

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11374. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Corvallis Gazette-Times newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication. - or 30 days after WRD notice, whichever is later.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0881 or [teri.k.hranac@wrdd.state.or.us](mailto:teri.k.hranac@wrdd.state.or.us), if I may be of assistance.

Sincerely,

Teri Hranac  
Transfer Specialist  
Transfer and Conservation Section

Enclosures

cc: T-11374  
Mike L. McCord, District 16 Watermaster (via e-mail)  
Tyler Barnett Parsons, CWRE, 1915 SE Stone Street, Corvallis, OR 97333





**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
12 S	6 W	WM	13	SW NE	51	1100 FEET SOUTH AND 830 FEET EAST FROM THE SW CORNER OF PENLAND DLC 45

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
12 S	6 W	WM	13	SW NE	51	17.2
12 S	6 W	WM	13	SE NW	51	3.2
12 S	6 W	WM	13	NE SW	51	1.3
12 S	6 W	WM	13	NE SE	51	0.4
12 S	6 W	WM	13	NW SE	51	16.0
Total						38.1

- Transfer Application T-11374 proposes to move the authorized point of diversion approximately 1800 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
12 S	6 W	WM	13	SW NE	51	2610 FEET SOUTH AND 1880 FEET EAST FROM THE SW CORNER OF PENLAND DLC 45

- Notice of the application for transfer was published on March 27, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On July 27, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11374 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 28, 2012, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
- The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

- Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11374.

9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

### **Determination and Proposed Action**

The change in point of diversion proposed in Transfer Application T-11374 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-11374 is approved, the final order will include the following:*

1. *The change in point of diversion proposed in Transfer Application T-11374 is approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 41975 and any related decree.*
3. *Water right certificate 41975 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.*
5. *Water use measurement conditions:*
  - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at the new point of diversion.*
  - b. *The water user shall maintain the meter or measuring device in good working order.*
  - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.*

*The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2013**. A Claim of Beneficial Use prepared by a Certified Water Right*

*Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*

8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 27 day of August, 2012.

  
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Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@wrdd.state.or.us.

Protests should be addressed to the attention of Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.